

Application No. : 09/825,772
Amdt. Dated : May 28, 2009
Reply To O.A. Of : November 28, 2008

REMARKS

By way of summary, Claims 30-45 and 55-60 were pending in this application. Moreover, the Applicant thanks Supervisor Myhre for his time during the interview of May 27, 2009.

Claims 30-45 and 55-60 remain pending for consideration.

Rejection Of Claims 30-45 and 55-58 Under 35 U.S.C. § 102(e) Over Yost

The Office Action rejected Claims 30-45 and 55-58 under 35 U.S.C. § 102(e) as being anticipated by U.S. patent no. 6,154,766, issued to Yost et al. (the Yost patent). The Applicant respectfully traverses this rejection because the Yost patent fails to identically teach every element of the claim. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

While the Applicant continues to assert that the Yost patent fails to identically teach or suggest the elements of the previously pending claims, in an effort to progress the prosecution of the present application, the amendments herein provide additional rationale for determining that Yost fails to anticipate the presently pending claims. As stated, Yost simply teaches accessing a business records database, where business managers can customize the statistical reporting they receive. In stark contrast, the present claims include pricing information at which a consumer would be willing to purchase commercial products. Yost is devoid of such teachings. In addition to pricing, the Applicant respectfully requests a review of the previously pending amendment for an in-depth discussion of the failed teachings of Yost relevant to the pending claims.

Accordingly, the Yost patent fails to identically teach or suggest each element of independent Claims 30 and 55. Thus, the Applicant respectfully submits that independent Claims 30 and 55 are allowable over the Yost patent. Similarly, dependent Claims 31-45 and 56-60, which dependent from Claims 30 and 55, are allowable over the Yost patent because of their dependency and because of the additional elements recited therein. For example, Claim 35 recites use of a barcode

Application No. : 09/825,772
Amdt. Dated : May 28, 2009
Reply To O.A. Of : November 28, 2008

reader to customize the deliverable, Claim 37 recites dynamic consumer information and Claim 41 recites that the deliverables include email.

Rejection Of Claims 30-45 and 55-60 Under 35 U.S.C. § 102(e) Over Carpenter

The Office Action rejected Claims 30-45 and 55-60 under 35 U.S.C. § 102(e) as being anticipated by U.S. patent no. 6,065,047, issued to Carpenter et al. (the Carpenter patent). The Applicant respectfully traverses this rejection because the Carpenter patent fails to identically teach every element of the claim.

While the Applicant continues to assert that the Carpenter patent fails to identically teach or suggest the elements of the previously pending claims, in an effort to progress the prosecution of the present application, the amendments herein provide additional rationale for determining that Carpenter fails to anticipate the presently pending claims. As discussed, the Carpenter patent discloses the CompuServe's Easy Navigator User Interface, which much like an AOL or Yahoo.com website front end, is simply a user interface environment for online activity. The interaction between a user and a front-end website like Yahoo or AOL is fundamentally different than the presently claimed subscription based deliverables, especially deliverables governed by conditions including price. In addition to pricing, the Applicant respectfully requests a review of the previously pending amendment for an in-depth discussion of the failed teachings of Carpenter relevant to the pending claims.

Thus, the Carpenter patent also fails to teach or suggest narrow consumer subscription to products or services. Accordingly, the Carpenter patent fails to identically teach or suggest each element of independent Claims 30 and 55. Thus, the Applicant respectfully submits that independent Claims 30 and 55 are allowable over the Carpenter patent. Similarly, dependent Claims 31-45 and 56-60, which dependent from Claims 30 and 55, are allowable over the Carpenter patent because of their dependency and because of the additional elements recited therein.

Application No. : 09/825,772
Amdt. Dated : May 28, 2009
Reply To O.A. Of : November 28, 2008

Request For Telephone Interview

In view of the forgoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Applicant's attorney of record hereby formally requests a telephone interview with the Examiner. The Applicant's attorney can be reached at (949) 721-2946.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

In addition, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

By:


John M. Grover
Registration No. 42,610
Attorney of Record
(949) 760-0404

Dated: May 28, 2009

7198689/052809